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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,266	07/31/2003	Edward Z. Cai	CAI-05082000D1	3788

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EXAMINER

KUHNS, SARAH LOUISE

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/631,266

Applicant(s)

CAI, EDWARD Z.

Examiner

Sarah L Kuhns

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-56 is/are pending in the application.
- 4a) Of the above claim(s) 30-47 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 48-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Newly submitted claims 30-47 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The scope of the claims is different for these claims. For example, in claim 30, applicant now requires an exchange chamber and an extraction chamber with a reservoir of water, which is required to be shook and swirled, thereby producing a beverage in 5-60 seconds.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 30-56 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

Claims 48 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levinson in view of Pastrick. Levinson discloses a method for preparing a brewed drink which comprises providing a container with a filter (13) connected to the container and introducing a predetermined amount of hot water to the container (column 6, line 55) containing roasted coffee grounds (3) to produce a dispersion of coffee grounds

(column 3, line 40). Levinson fails to disclose a step of adding an amount of ice and/or cold liquid into the container to substantially quench or stop the extraction. However, it was well known to one of ordinary skill in the art to add ice to brewed drinks for the purpose of making cold brewed beverages in a method for automatically brewing a beverage, as evidenced by Pastrick (column 6, line 55). It therefore would have been obvious to add ice and/or cold liquid to the coffee beverage in order to provide a cold drink if so desired. Although Levinson does not expressly disclose the tilting of the container it would have been expected that a consumer would tilt the container every time a drink is taken.

Claim 50 and 53-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welker.

In regard to claim 50, Welker discloses a method for preparing a brewed drink, which comprises providing a container and a filter connected to the container (column 1, line 37), introducing a predetermined amount of hot water into the container to form a dispersion of coffee grounds (column 1, line 31), and taking or pouring a drink by tilting the container (column 1, line 38), facilitating the filtration flow of the dispersion (column 4, line 9). Welker does not expressly disclose the shaking or swirling of the container prior to drinking. However, Welker does address the problem this step is meant to eliminate, which is the clogging of the filter with coffee grounds. Welker teaches flow facilitation step involving a lid with a downward sloping bottom wall that assists in the washing away of solids tending to adhere to the lower surface of the filter (column 4, line 9). Shaking or swirling the container would be an obvious alternative to the use of a

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sloped lid because such a step would also allow for the washing away of solids adhering to the lower surface of the filter, thereby facilitating flow.

In regard to claims 53 and 54, Welker does not disclose the number of holes per inch that the filter has. However, absent a showing to the contrary by clear and convincing evidence, it would have been expected that the number of holes claimed by applicant was standard for coffee filters. Further it would have been obvious to vary the number of holes in the filter in order to achieve optimum flow of the beverage through the filter while maintaining retention of the coffee grounds.

In regard to claim 55, Welker does not disclose pouring the hot water onto a fixed spot or small area on the filter. However, it would have been obvious to one of ordinary skill in the art to do so because the water will not pass through the filter as quickly as it is poured onto the filter and therefore it must be poured slowly in small amounts to prevent overflow.

In regard to claim 56, Welker discloses the filter being made of polyester or nylon (column 3, lines 38-40), which are materials that stay sufficiently dry after contact with water to allow air to pass through the filter.

Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Welker in view of Friedrich et al., U.S. Patent 5,711,880. Welker does not disclose the formation of crema. However, Friedrich teaches that crema is formed when a brewed beverage is forced through a filter (column 2, lines 5-16) and also discloses that swirling improves the formation of crema (column 2, lines 31-32). It therefore would have been

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obvious to shake or swirl the container in order to cause the beverage to flow back and forth through the filter thereby producing a layer of crema, as taught by Friedrich.

Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over Welker in view of Friedrich and Krebs, U.S. Patent 4,052,318. Welker does not disclose a transparent filter. However, Krebs teaches that it was conventional to make beverage filters from a variety of materials, including plastic (column 2, lines 32-35), which is known to be at least somewhat transparent, and therefore it would have been obvious to employ to use such a filter in the invention of Welker.

Response to Arguments

Applicant's arguments with respect to claims 30-56 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah L. Kuhns whose telephone number is 571-272-1088. The examiner can normally be reached on Monday - Friday from 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SLK


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